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Preparatory Commission for the International Criminal Court
Working Group on an Agreement on the Privileges and Immunities of the International Criminal Court
New York, 24 September-5 October 2001

Report of the Working Group

Draft Agreement on the Privileges and Immunities of the International Criminal Court

The States Parties to the present Agreement,

Whereas the Rome Statute of the International Criminal Court adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries established the International Criminal Court with the power to exercise its jurisdiction over persons for the most serious crimes of international concern;

Whereas article 4 of the Rome Statute provides that the International Criminal Court shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes;

Whereas article 48 of the Rome Statute provides that the International Criminal Court shall enjoy in the territory of each State Party to the Rome Statute such privileges and immunities as are necessary for the fulfilment of its purposes;

Have agreed as follows:

Article 1
Use of terms

For the purposes of the present Agreement:

(a) "The Statute" means the Rome Statute of the International Criminal Court adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court;

(b) "The Court" means the International Criminal Court established by the Statute;

(c) "States Parties" means States Parties to the present Agreement;

(d) "Representatives of States Parties" means all delegates, deputy delegates, advisers, technical experts and secretaries of delegations;

(e) "Assembly" means the Assembly of States Parties to the Statute;

(f) "Judges" means the judges of the Court;

(g) "The Presidency" means the organ composed of the President and the First and Second Vice-Presidents of the Court;

(h) "Prosecutor" means the Prosecutor elected by the Assembly in accordance with article 42, paragraph 4, of the Statute;

(i) "Deputy Prosecutors" means the Deputy Prosecutors elected by the Assembly in accordance with article 42, paragraph 4, of the Statute;

(j) "Registrar" means the Registrar elected by the Court in accordance with article 43, paragraph 4, of the Statute;

(k) "Deputy Registrar" means the Deputy Registrar elected by the Court in accordance with article 43, paragraph 4, of the Statute;

(l) "Counsel" means defence counsel and the legal representatives of victims;

(m) "Secretary-General" means the Secretary-General of the United Nations;

(n) "Representatives of intergovernmental organizations" means the executive heads of intergovernmental organizations, including any official acting on his or her behalf;

(o) "Vienna Convention" means the Vienna Convention on Diplomatic Relations of 18 April 1961;

(p) "Rules of Procedure and Evidence" means the Rules of Procedure and Evidence adopted in accordance with article 51 of the Statute.

Article 2
Legal status and juridical personality of the Court

The Court shall have international legal personality and shall also have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes. It shall, in particular, have the capacity to contract, to acquire and to dispose of immovable and movable property and to participate in legal proceedings.

Article 3
General provisions on privileges and immunities of the Court

The Court shall enjoy in the territory of each State Party such privileges and immunities as are necessary for the fulfilment of its purposes.

Article 4
Inviolability of the premises of the Court

The premises of the Court shall be inviolable.

Article 5
Flag, emblem and markings

The Court shall be entitled to display its flag, emblem and markings at its premises and on vehicles and other means of transportation used for official purposes.

Article 6
Immunity of the Court, its property, funds and assets

1. The Court, and its property, funds and assets, wherever located and by whomsoever held, shall be immune from every form of legal process, except insofar as in any particular case the Court has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

2. The property, funds and assets of the Court, wherever located and by whomsoever held, shall be immune from search, seizure, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

3. To the extent necessary to carry out the functions of the Court, the property, funds and assets of the Court, wherever located and by whomsoever held, shall be exempt from restrictions, regulations, controls or moratoria of any nature.

Article 7
Inviolability of archives and documents

The archives of the Court, and all papers and documents in whatever form, and materials being sent to or from the Court, held by the Court or belonging to it, wherever located and by whomsoever held, shall be inviolable. The termination or absence of such inviolability shall not affect protective measures that the Court may order pursuant to the Statute and the Rules of Procedure and Evidence with regard to documents and materials made available to or used by the Court.

Article 8
Exemption from taxes, customs duties and import or export restrictions

1. The Court, its assets, income and other property and its operations and transactions shall be exempt from all direct taxes, which include, inter alia, income tax, capital tax and corporation tax, as well as direct taxes levied by local and provincial authorities. It is understood, however, that the Court shall not claim exemption from taxes which are, in fact, no more than charges for public utility services provided at a fixed rate according to the amount of services rendered and which can be specifically identified, described and itemized.

2. The Court shall be exempt from all customs duties, import turnover taxes and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Court for its official use and in respect of its publications.

3. Goods imported or purchased under such an exemption shall not be sold or otherwise disposed of in the territory of a State Party, except under conditions agreed with the competent authorities of that State Party.

Article 9
Reimbursement of duties and/or taxes

1. The Court shall not, as a general rule, claim exemption from duties and/or taxes which are included in the price of movable and immovable property and taxes paid for services rendered. Nevertheless, when the Court for its official use makes major purchases of property and goods or services on which identifiable duties and/or taxes are charged or are chargeable, States Parties shall make appropriate administrative arrangements for the exemption of such charges or reimbursement of the amount of duty and/or tax paid.

2. Goods purchased under such an exemption or reimbursement shall not be sold or otherwise disposed of, except in accordance with the conditions laid down by the State Party which granted the exemption or reimbursement. No exemption or reimbursement shall be accorded in respect of charges for public utility services provided to the Court.

Article 10
Funds and freedom from currency restrictions

1. Without being restricted by financial controls, regulations or financial moratoriums of any kind, while carrying out its activities:

(a) The Court may hold funds, currency of any kind or gold and operate accounts in any currency;

(b) The Court shall be free to transfer its funds, gold or its currency from one country to another or within any country and to convert any currency held by it into any other currency;

(c) The Court may receive, hold, negotiate, transfer, convert or otherwise deal with bonds and other financial securities;

(d) The Court shall enjoy treatment not less favourable than that accorded by the State Party concerned to any intergovernmental organization or diplomatic mission in respect of rates of exchange for its financial transactions.

2. In exercising its rights under paragraph 1, the Court shall pay due regard to any representations made by any State Party insofar as it is considered that effect can be given to such representations without detriment to the interests of the Court.

Article 11
Facilities in respect of communications

1. The Court shall enjoy in the territory of each State Party for the purposes of its official communications and correspondence treatment not less favourable than that accorded by the State Party concerned to any intergovernmental organization or diplomatic mission in the matter of priorities, rates and taxes applicable to mail and the various forms of communication and correspondence.

2. No censorship shall be applied to the official communications or correspondence of the Court.

3. The Court may use all appropriate means of communication, including electronic means of communication, and shall have the right to use codes or cipher

for its official communications and correspondence. The official communications and correspondence of the Court shall be inviolable.

4. The Court shall have the right to dispatch and receive correspondence and other materials or communications by courier or in sealed bags, which shall have the same privileges, immunities and facilities as diplomatic couriers and bags.

5. The Court shall have the right to operate radio and other telecommunication equipment on any frequencies allocated to it by the States Parties in accordance with their national procedures. The States Parties shall endeavour to allocate to the Court, to the extent possible, frequencies for which it has applied.

Article 12
Exercise of the functions of the Court outside its headquarters

In the event that the Court, pursuant to article 3, paragraph 3, of the Statute, considers it desirable to sit elsewhere than at its headquarters at The Hague in the Netherlands, the Court may conclude with the State concerned an arrangement concerning the provision of the appropriate facilities for the exercise of its functions.

Article 13
Representatives of States participating in the Assembly and its subsidiary organs and representatives of intergovernmental organizations

1. Representatives of States Parties to the Statute attending meetings of the Assembly and its subsidiary organs, representatives of other States that may be attending meetings of the Assembly and its subsidiary organs as observers in accordance with article 112, paragraph 1, of the Statute, and representatives of States and of intergovernmental organizations invited to meetings of the Assembly and its subsidiary organs shall, while exercising their official functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

(a) Immunity from personal arrest or detention;

(b) Immunity from legal process of every kind in respect of words spoken or written, and all acts performed by them in their official capacity; such immunity shall continue to be accorded notwithstanding that the persons concerned may have ceased to exercise their functions as representatives;

(c) Inviolability of all papers and documents in whatever form;

(d) The right to use codes or cipher, to receive papers and documents or correspondence by courier or in sealed bags and to receive and send electronic communications;

(e) Exemption from immigration restrictions, alien registration requirements and national service obligations in the State Party they are visiting or through which they are passing in the exercise of their functions;

(f) The same privileges in respect of currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions;

(g) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys under the Vienna Convention;

(h) The same protection and repatriation facilities as are accorded to diplomatic agents in time of international crisis under the Vienna Convention;

(i) Such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic agents enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise as part of their personal baggage) or from excise duties or sales taxes.

2. Where the incidence of any form of taxation depends upon residence, periods during which the representatives described in paragraph 1 attending the meetings of the Assembly and its subsidiary organs are present in a State Party for the discharge of their duties shall not be considered as periods of residence.

3. The provisions of paragraphs 1 and 2 of this article are not applicable as between a representative and the authorities of the State Party of which he or she is a national or of the State Party or intergovernmental organization of which he or she is or has been a representative.

Article 14
Representatives of States participating in the proceedings of the Court

Representatives of States participating in the proceedings of the Court shall, while exercising their official functions, and during their journey to and from the place of the proceedings, enjoy the privileges and immunities referred to in article 13.

Article 15
Judges, Prosecutor, Deputy Prosecutors and Registrar

1. The judges, the Prosecutor, the Deputy Prosecutors and the Registrar shall, when engaged on or with respect to the business of the Court, enjoy the same privileges and immunities as are accorded to heads of diplomatic missions and shall, after the expiry of their terms of office, continue to be accorded immunity from legal process of every kind in respect of words which had been spoken or written and acts which had been performed by them in their official capacity.

2. The judges, the Prosecutor, the Deputy Prosecutors and the Registrar and members of their families forming part of their households shall be accorded every facility for leaving the country where they may happen to be and for entering and leaving the country where the Court is sitting. On journeys in connection with the exercise of their functions, the judges, the Prosecutor, the Deputy Prosecutors and the Registrar shall in all States Parties through which they may have to pass enjoy all the privileges, immunities and facilities granted by States Parties to diplomatic agents in similar circumstances under the Vienna Convention.

3. If a judge, the Prosecutor, a Deputy Prosecutor or the Registrar, for the purpose of holding himself or herself at the disposal of the Court, resides in any State Party other than that of which he or she is a national or permanent resident, he or she shall, together with family members forming part of his or her household, be accorded diplomatic privileges, immunities and facilities during the period of residence.

4. The judges, the Prosecutor, the Deputy Prosecutors and the Registrar and members of their families forming part of their households shall be accorded the

same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention.

5. Paragraphs 1 to 4 of this article shall apply to judges of the Court even after their term of office has expired if they continue to exercise their functions in accordance with article 36, paragraph 10, of the Statute.

6. The salaries, emoluments and allowances paid to the judges, the Prosecutor, the Deputy Prosecutors and the Registrar by the Court shall be exempt from taxation. Where the incidence of any form of taxation depends upon residence, periods during which the judges, the Prosecutor, the Deputy Prosecutors and the Registrar are present in a State Party for the discharge of their functions shall not be considered as periods of residence for purposes of taxation. States Parties may take these salaries, emoluments and allowances into account for the purpose of assessing the amount of taxes to be applied to income from other sources.

7. States Parties shall not be obliged to exempt from income tax pensions or annuities paid to former judges, Prosecutors and Registrars and their dependants.

Article 16
Deputy Registrar, staff of the Office of the Prosecutor and staff of the Registry

1. The Deputy Registrar, the staff of the Office of the Prosecutor and the staff of the Registry shall enjoy such privileges, immunities and facilities as are necessary for the independent performance of their functions. They shall be accorded:

(a) Immunity from personal arrest or detention and from seizure of their personal baggage;

(b) Immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity, which immunity shall continue to be accorded even after termination of their employment with the Court;

(c) Inviolability for all official papers and documents in whatever form and materials;

(d) Exemption from taxation on the salaries, emoluments and allowances paid to them by the Court. States Parties may take these salaries, emoluments and allowances into account for the purpose of assessing the amount of taxes to be applied to income from other sources;

(e) Exemption from national service obligations;

(f) Together with members of their families forming part of their household, exemption from immigration restrictions or alien registration;

(g) Exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the State Party concerned; an inspection in such a case shall be conducted in the presence of the official concerned;

(h) The same privileges in respect of currency and exchange facilities as are accorded to the officials of comparable rank of diplomatic missions established in the State Party concerned;

(i) Together with members of their families forming part of their household, the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention;

(j) The right to import free of duties and taxes, except payments for services, their furniture and effects at the time of first taking up post in the State Party in question and to re-export their furniture and effects free of duties and taxes to their country of permanent residence.

2. States Parties shall not be obliged to exempt from income tax pensions or annuities paid to former Deputy Registrars, members of the staff of the Office of the Prosecutor, members of the staff of the Registry and their dependants.

Article 17
Personnel recruited locally and not otherwise covered by the present Agreement

Personnel recruited by the Court locally and not otherwise covered by the present Agreement shall be accorded immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity for the Court. Such immunity shall continue to be accorded after termination of employment with the Court for activities carried out on behalf of the Court. During their employment, they shall also be accorded such other facilities as may be necessary for the independent exercise of their functions for the Court.

Article 18
Counsel and persons assisting defence counsel

1. Counsel shall enjoy the following privileges, immunities and facilities to the extent necessary for the independent performance of his or her functions, including the time spent on journeys, in connection with the performance of his or her functions and subject to production of the certificate referred to in paragraph 2 of this article:

(a) Immunity from personal arrest or detention and from seizure of his or her personal baggage;

(b) Immunity from legal process of every kind in respect of words spoken or written and all acts performed by him or her in their official capacity, which immunity shall continue to be accorded even after he or she has ceased to exercise his or her functions;

(c) Inviolability of papers and documents in whatever form and materials relating to the exercise of his or her functions;

(d) For the purposes of communications in pursuance of his or her functions as counsel, the right to receive and send papers and documents in whatever form;

(e) Exemption from immigration restrictions or alien registration;

(f) Exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the State Party concerned; an inspection in such a case shall be conducted in the presence of the counsel concerned;

(g) The same privileges in respect of currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions;

(h) The same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention.

2. Upon appointment of counsel in accordance with the Statute, the Rules of Procedure and Evidence and the Regulations of the Court, counsel shall be provided with a certificate under the signature of the Registrar for the period required for the exercise of his or her functions. Such certificate shall be withdrawn if the power or mandate is terminated before the expiry of the certificate.

3. Where the incidence of any form of taxation depends upon residence, periods during which counsel is present in a State Party for the discharge of his or her functions shall not be considered as periods of residence.

4. The provisions of this article shall apply mutatis mutandis to persons assisting defence counsel in accordance with rule 22 of the Rules of Procedure and Evidence.

Article 19
Witnesses

1. Witnesses shall enjoy the following privileges, immunities and facilities to the extent necessary for their appearance before the Court for purposes of giving evidence, including the time spent on journeys in connection with their appearance before the Court, subject to the production of the document referred to in paragraph 2 of this article:

(a) Immunity from personal arrest or detention;

(b) Without prejudice to subparagraph (d) below, immunity from seizure of their personal baggage unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the State Party concerned;

(c) Immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of their testimony, which immunity shall continue to be accorded even after their appearance and testimony before the Court;

(d) Inviolability of papers and documents in whatever form and materials relating to their testimony;

(e) For purposes of their communications with the Court and counsel in connection with their testimony, the right to receive and send papers and documents in whatever form;

(f) Exemption from immigration restrictions or alien registration when they travel for purposes of their testimony;

(g) The same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention.

2. Witnesses who enjoy the privileges, immunities and facilities referred to in paragraph 1 of this article shall be provided by the Court with a document certifying that their appearance is required by the Court and specifying a time period during which such appearance is necessary.

Article 20
Victims

1. Victims participating in the proceedings in accordance with rules 89 to 91 of the Rules of Procedure and Evidence shall enjoy the following privileges, immunities and facilities to the extent necessary for their appearance before the Court, including the time spent on journeys in connection with their appearance before the Court, subject to the production of the document referred to in paragraph 2 of this article:

(a) Immunity from personal arrest or detention;

(b) Immunity from seizure of their personal baggage unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the State Party concerned;

(c) Immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of their appearance before the Court, which immunity shall continue to be accorded even after their appearance before the Court;

(d) Exemption from immigration restrictions or alien registration when they travel to and from the Court for purposes of their appearance.

2. Victims participating in the proceedings in accordance with rules 89 to 91 of the Rules of Procedure and Evidence who enjoy the privileges, immunities and facilities referred to in paragraph 1 of this article shall be provided by the Court with a document certifying their participation in the proceedings of the Court and specifying a time period for that participation.

Article 21
Experts

1. Experts performing functions for the Court shall be accorded the following privileges, immunities and facilities to the extent necessary for the independent exercise of their functions, including the time spent on journeys in connection with their functions, subject to production of the document referred to in paragraph 2 of this article:

(a) Immunity from personal arrest or detention and from seizure of their personal baggage;

(b) Immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of the performance of their functions, which immunity shall continue to be accorded even after the termination of their functions;

(c) Inviolability of papers and documents in whatever form and materials relating to their functions;

(d) For the purposes of their communications with the Court, the right to receive and send papers and documents in whatever form and materials relating to their functions by courier or in sealed bags;

(e) Exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the State Party concerned; an inspection in such a case shall be conducted in the presence of the expert concerned;

(f) The same privileges in respect of currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions;

(g) The same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention;

(h) Exemption from immigration restrictions or alien registration in relation to their functions as specified in the document referred to in paragraph 2 of this article.

2. Experts who enjoy the privileges, immunities and facilities referred to in paragraph 1 of this article shall be provided by the Court with a document certifying that they are performing functions for the Court and specifying a time period for which their functions will last.

Article 22
Other persons required to be present at the seat of the Court

1. Other persons required to be present at the seat of the Court shall, to the extent necessary for their presence at the seat of the Court, including the time spent on journeys in connection with their presence, be accorded the privileges, immunities and facilities provided for in article 20, paragraph 1, subparagraphs (a) to (d), of the present Agreement, subject to production of the document referred to in paragraph 2 of this article.

2. Other persons required to be present at the seat of the Court shall be provided by the Court with a document certifying that their presence is required at the seat of the Court and specifying a time period during which such presence is necessary.

Article 23
Cooperation with the authorities of States Parties

1. The Court shall cooperate at all times with the appropriate authorities of States Parties to facilitate the enforcement of their laws and to prevent the occurrence of any abuse in connection with the privileges, immunities and facilities referred to in the present Agreement.

2. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying privileges and immunities under the present Agreement to respect the laws and regulations of the State Party in whose territory they may be on the business of the Court or through whose territory they may pass on such business. They also have a duty not to interfere in the internal affairs of that State.

Article 24
Waiver of privileges and immunities provided for in articles 13 and 14

Privileges and immunities provided for in articles 13 and 14 of the present Agreement are accorded to the representatives of States and intergovernmental organizations not for the personal benefit of the individuals themselves, but in order

to safeguard the independent exercise of their functions in connection with the work of the Assembly, its subsidiary organs and the Court. Consequently, States Parties not only have the right but are under a duty to waive the privileges and immunities of their representatives in any case where, in the opinion of those States, they would impede the course of justice and can be waived without prejudice to the purpose for which the privileges and immunities are accorded. States not party to the present Agreement and intergovernmental organizations are granted the privileges and immunities provided for in articles 13 and 14 of the present Agreement on the understanding that they undertake the same duty regarding waiver.

Article 25
Waiver of privileges and immunities provided for in articles 15 to 22

1. The privileges and immunities provided for in articles 15 to 22 of the present Agreement are granted in the interests of the good administration of justice and not for the personal benefit of the individuals themselves. Such privileges and immunities may be waived in accordance with article 48, paragraph 5, of the Statute and the provisions of this article and there is a duty to do so in any particular case where they would impede the course of justice and can be waived without prejudice to the purpose for which they are accorded.

2. The privileges and immunities may be waived:

(a) In the case of a judge or the Prosecutor, by an absolute majority of the judges;

(b) In the case of the Registrar, by the Presidency;

(c) In the case of the Deputy Prosecutors and the staff of the Office of the Prosecutor, by the Prosecutor;

(d) In the case of the Deputy Registrar and the staff of the Registry, by the Registrar;

(e) In the case of personnel referred to in article 17, by the head of the organ of the Court employing such personnel;

(f) In the case of counsel and persons assisting defence counsel, by the Presidency;

(g) In the case of witnesses and victims, by the Presidency;

(h) In the case of experts, by the head of the organ of the Court appointing the expert;

(i) In the case of other persons required to be present at the seat of the Court, by the Presidency.

Article 26
Social security

From the date on which the Court establishes a social security scheme, the persons referred to in articles 15, 16 and 17 shall, with respect to services rendered for the Court, be exempt from all compulsory contributions to national social security schemes.

Article 27
Notification

The Registrar shall communicate periodically to all States Parties the names of the judges, the Prosecutor, the Deputy Prosecutors, the Registrar, the Deputy Registrar, the staff of the Office of the Prosecutor, the staff of the Registry and counsel to whom the provisions of the present Agreement apply. The Registrar shall also communicate to all States Parties information on any change in the status of these persons.

Article 28
Laissez-passer

The States Parties shall recognize and accept the United Nations laissez-passer or the travel document issued by the Court to the judges, the Prosecutor, the Deputy Prosecutors, the Registrar, the Deputy Registrar, the staff of the Office of the Prosecutor and the staff of the Registry as valid travel documents.

Article 29
Visas

Applications for visas or entry/exit permits, where required, from all persons who are holders of the United Nations laissez-passer or of the travel document issued by the Court, and also from persons referred to in articles 18 to 22 of the present Agreement who have a certificate issued by the Court confirming that they are travelling on the business of the Court, shall be dealt with by the States Parties as speedily as possible and granted free of charge.

Article 30
Settlement of disputes with third parties

The Court shall, without prejudice to the powers and responsibilities of the Assembly under the Statute, make provisions for appropriate modes of settlement of:

(a) Disputes arising out of contracts and other disputes of a private law character to which the Court is a party;

(b) Disputes involving any person referred to in the present Agreement who, by reason of his or her official position or function in connection with the Court, enjoys immunity, if such immunity has not been waived.

Article 31
Settlement of differences on the interpretation or application of the present Agreement

1. All differences arising out of the interpretation or application of the present Agreement between two or more States Parties or between the Court and a State Party shall be settled by consultation, negotiation or other agreed mode of settlement.

2. If the difference is not settled in accordance with paragraph 1 of this article within three months following a written request by one of the parties to the

difference, it shall, at the request of either party, be referred to an arbitral tribunal according to the procedure set forth in paragraphs 3 to 6 of this article.

3. The arbitral tribunal shall be composed of three members: one to be chosen by each party to the difference and the third, who shall be the chairman of the tribunal, to be chosen by the other two members. If either party has failed to make its appointment of a member of the tribunal within two months of the appointment of a member by the other party, that other party may invite the President of the International Court of Justice to make such appointment. Should the first two members fail to agree upon the appointment of the chairman of the tribunal within two months following their appointment, either party may invite the President of the International Court of Justice to choose the chairman.

4. Unless the parties to the difference otherwise agree, the arbitral tribunal shall determine its own procedure and the expenses shall be borne by the parties as assessed by the tribunal.

5. The arbitral tribunal, which shall decide by a majority of votes, shall reach a decision on the difference on the basis of the provisions of the present Agreement and the applicable rules of international law. The decision of the arbitral tribunal shall be final and binding on the parties to the difference.

6. The decision of the arbitral tribunal shall be communicated to the parties to the difference, to the Registrar and to the Secretary-General.

Article 32
Applicability of the present Agreement

The present Agreement is without prejudice to relevant rules of international law, including international humanitarian law.

Article 33
Signature, ratification, acceptance, approval or accession

1. The present Agreement shall be open for signature by all States until ... at the seat of the Court in The Hague and thereafter until ... at United Nations Headquarters in New York.

2. The present Agreement is subject to ratification, acceptance or approval by signatory States. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General.

3. The present Agreement shall remain open for accession by all States. The instruments of accession shall be deposited with the Secretary-General.

Article 34
Entry into force

1. The present Agreement shall enter into force thirty days after the date of deposit with the Secretary-General of the tenth instrument of ratification, acceptance, approval or accession.

2. For each State ratifying, accepting, approving or acceding to the present Agreement after the deposit of the tenth instrument of ratification, acceptance, approval or accession, the Agreement shall enter into force on the thirtieth day

following the deposit with the Secretary-General of its instrument of ratification, acceptance, approval or accession.

Article 35
Amendments

1. Any State Party may, by written communication addressed to the Secretary-General, propose amendments to the present Agreement. The Secretary-General shall circulate such communication to all States Parties and the Bureau of the Assembly with a request that States Parties notify the Secretary-General whether they favour a Review Conference of States Parties to discuss the proposal.

2. If, within three months from the date of circulation by the Secretary-General, a majority of States Parties notify the Secretary-General that they favour a Review Conference, the Secretary-General shall request the Bureau of the Assembly to convene such a Conference in connection with the next regular or special session of the Assembly.

3. The adoption of an amendment on which consensus cannot be reached shall require a two-thirds majority of States Parties present and voting, provided that a majority of States Parties is present.

4. The Secretary-General shall circulate to all States Parties and signatory States any amendment adopted at a Review Conference.

5. An amendment shall enter into force for States Parties which have ratified or accepted the amendment sixty days after two thirds of the States which were Parties at the date of adoption of the amendment have deposited instruments of ratification or acceptance with the Secretary-General.

6. For each State Party ratifying or accepting an amendment after the deposit of the required number of instruments of ratification or acceptance, the amendment shall enter into force on the sixtieth day following the deposit of its instrument of ratification or acceptance.

7. A State which becomes a Party to the present Agreement after the entry into force of an amendment in accordance with paragraph 5 shall, failing an expression of different intention by that State:

(a) Be considered a Party to the present Agreement as so amended; and

(b) Be considered a Party to the unamended Agreement in relation to any State Party not bound by the amendment.

Article 36
Denunciation

1. A State Party may, by written notification addressed to the Secretary-General, denounce the present Agreement. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in the present Agreement to which it would be subject under international law independently of the present Agreement.

Article 37
Depositary

The Secretary-General shall be the depositary of the present Agreement.

Article 38
Authentic texts

The original of the present Agreement, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General.

IN WITNESS THEREOF, the undersigned, being duly authorized thereto, have signed the present Agreement.